



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 27, 1996

Mr. Boyd Kennedy  
Staff Attorney  
Law Enforcement Division  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744

OR96-1772

Dear Mr. Kennedy:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101083.

The Texas Parks and Wildlife Department (the "department") received an open records request for all records held by the department concerning attacks by wild animals owned or under the control of certain named individuals. The requestor also seeks records pertaining to the removal of those wild animals from the property where they were maintained. You state that the department has released to the requestor some of the requested records. You seek to withhold, however, the remaining records pursuant to sections 552.103 and 552.108 of the Government Code.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Because the records at issue clearly come within the purview of section 552.108, we conclude that most of the information at issue may be withheld under this section,<sup>1</sup> with the following exceptions.

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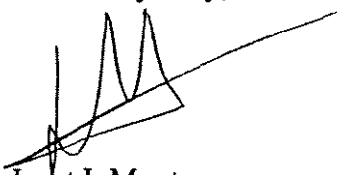
<sup>1</sup>Although section 552.108 authorizes the department to withhold this information, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007. In this regard we note that the medical records contained in Item 15 may be released only in compliance with the Texas Medical Practice Act, V.T.C.S. art. 4495b.

We first note that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information that are contained in Item 4 and Item 15, even if this information is not actually located on the front page of the offense reports. We also believe that Item 5, a citation issued to the owner of the animals, consists solely of front page offense report information and thus must be released in its entirety. For your convenience, we have enclosed a summary of Open Records Decision No. 127 (1976), which outlines the types of information that must be made public under *Houston Chronicle*.

We also note that the "law enforcement" exception was not intended by the legislature to shield from public view information in the hands of law enforcement agencies that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit. Open Records Decision No. 287 (1981) at 2. A representative of the United States Department of Agriculture has informed this office that its "Animal Care Inspection Report" forms and its "Application For License" forms are available to the public, even when there is pending Department of Agriculture investigation. Accordingly, we conclude that the department may not withhold these types of records from the requestor. Similarly, because the indictment submitted to this office as Item 9 is available to the public in the Ellis County district clerk's office, the department must also release this record.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>We additionally note that because the criminal defendant has had prior access to these records, the department may not withhold them pursuant to section 552.103 of the Government Code. See Open Records Decision Nos. 349 (1982), 320 (1982).

Ref.: ID# 101083

Enclosures: Summary of Open Records Decision No. 127  
Submitted documents

cc: Mr. Alan Davis  
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(w/o submitted documents)